

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4605 of 2014

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1. Shamsun Nisha Wife Of Late Hafiz Abdul Rashid
 2. Md. Mojahid Rashidi Son Of Late Hafiz Abdul Rashid Both Residents Of Mohalla - Shekhana Town, Biharsharif, P.S. Bihar, District - Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna
2. The Collector, Nalanda At Biharsharif
3. The Circle Officer, Biharsharif, Nalanda
4. The District Fisheries Officer - Cum - Chief Executive Officer, Biharsharif, Nalanda
5. Sudama Kewat Son of Not Known, Mantri, Biharsharif Prakhand Stariye Matasayajibi Sahyog Samiti Ltd., Resident of Village - Takiyakalam, P.O. Tungi, P.S. Bihar, District - Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh, Adv.

For the Respondent No.1 to 4 : Mr. Vivek Prasad, G.P. 7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 22-09-2016

Heard the learned counsel appearing on behalf of the petitioners and the learned G.P. 7 appearing on behalf of the respondent nos. 1 to 4. However, none appears on behalf of the respondent no.5.

The grievance of the petitioners in the present writ petition is that though, there is a judgment and decree passed by the civil court in their favour, yet the lands in question, fully detailed in paragraph-1 of the writ petition, has wrongly been included in the sairat list. According to the learned counsel, the petitioners filed their representation before the respondent District Fisheries Officer Officer, Nalanda, Biharsharif, which has been brought on the record as Annexure-5 to the writ petition, but till date representation filed on

behalf of the petitioners has not been disposed of and in the meantime, the sairat in question has been settled in favour of the private respondent no.5.

The learned G.P. 7, appearing on behalf of the official respondents, submits that the lands in question has been recorded in the revenue records as "*Gairmajarua Aam Pokhar*", which was transferred by the Department of Revenue, Government of Bihar, Patna to the Department of Animal Husbandry and Fisheries in the year 2002 and thereafter it is regularly being settled in favour of the private individuals by the Fisheries Department. However, the learned G.P. 7 has not been able to dispute about filing of the representation by the petitioners. He has also not been able to show from the averments made in the counter-affidavit filed on behalf of the respondent nos. 1 to 4 that the representation filed on behalf of the petitioners has finally been disposed of.

In view of the nature of the grievances/claims raised on behalf of the petitioners with respect to the lands in question, this Court is of the opinion that instead of deciding all the disputed question of facts in the present proceeding, the interest of justice shall be sub-served if the petitioners are granted liberty to file a fresh comprehensive representation before the respondent District Collector, Nalanda at Bihar Sharif with all supporting documents and raising all the pleas, which have been raised in the present writ petition. It is ordered accordingly.

If such a comprehensive representation is filed on behalf of the petitioners within a period of one month from today with a certified copy of the present order, then the respondent District Collector, Nalanda at Bihar Sharif either himself or any other competent authority of the respondent State, as per his endorsement,

shall be obliged to consider and decide the claims of the petitioner by a reasoned and speaking order, after giving an opportunity of hearing to the petitioners, the respondent no.5 and other concerned persons/ authorities at an early date preferably within a period of four months from the date of filing of such representation. While passing the final order, the competent authority shall also examine the relevant documents, and shall record its conclusion about the validity and correctness of transfer of the lands in question for being treated as sairat.

The parties shall be at liberty to raise all the issues of facts and law and they shall also be a liberty to produce all the documents/ materials in support of their claims with respect to the lands in question before the competent authority.

This is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioners with respect to the lands in question in the present writ petition and this is left to be decided by the competent authority strictly in accordance with law.

The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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Uploading Date	
Transmission Date	